



DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-81,313]

Wyatt Virgin Islands (V.I.), Inc.
A Division of Wyatt Field Service Company
Working On-Site at Hovenssa, LLC Oil Refinery
Christiansted, St. Croix, U.S. Virgin Islands

Notice of Negative Determination
on Reconsideration

The initial investigation, instituted on February 8, 2012, on behalf of workers and former workers of Wyatt Virgin Islands (V.I.), Inc., a division of Wyatt Field Service Company, working on-site at HOVENSA, LLC Oil Refinery, Christiansted, St. Croix, U.S. Virgin Islands (subject facility) resulted in a negative determination, issued on April 6, 2012. The Department's Notice of negative determination was published in the Federal Register on April 19, 2012 (77 FR 23511).

Workers of Wyatt V.I., Inc. (subject firm) provided turnaround (intermittent and "as needed") maintenance services on-site at the subject facility. The workers of the subject firm working on-site at HOVENSA, LLC Oil Refinery, Christiansted, St. Croix, U.S. Virgin Islands (subject worker group) worked only at the subject facility.

The petition states, "HOVENSA = Hess Oil is a joint venture with Venezuela. Impact of the closure of this plant & refinery will affect thousands of people displacing workers workforce. Losses at the HOVENSA refinery have totaled \$1.3 billion in the past three years, and are projected to continue."

The petitioning worker group eligibility requirements for workers (and former workers) of a Firm under Section 222(a) of the Act, 19 U.S.C. § 2272(a), can be satisfied if the following criteria are met:

(1) a significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated; and

(2) (A) (i) the sales or production, or both, of such firm have decreased absolutely;

(ii) (I) imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(II) imports of articles like or directly competitive with articles—

(aa) into which one or more component parts produced by such firm are directly incorporated, or

(bb) which are produced directly using services supplied by such firm, have increased; or

(III) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased; and

(iii) the increase in imports described in clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

(B) (i) (I) there has been a shift by such workers' firm to a foreign country in the production of articles or the supply of services like or directly competitive with articles which are produced or services which are supplied by such firm; or

(II) such workers' firm has acquired from a foreign country articles or services that are like or directly competitive with articles which are produced or services which are supplied by such firm; and

(ii) the shift described in clause (i)(I) or the acquisition of articles or services described in clause (i)(II) contributed importantly to such workers' separation or threat of separation.

Initial investigation

The initial investigation began when three workers filed a petition for Trade Adjustment Assistance (TAA), dated February 6, 2012, on behalf of workers and former workers of Wyatt V.I., Inc. (subject firm). Although workers of the subject firm supplied maintenance services on-site at HOVENSA, LLC Oil Refinery, Christiansted, St. Croix, U.S. Virgin Islands (subject facility), Wyatt VI, Inc. is a domestic firm and the subject worker group was based out of Texas. The subject firm was under contract with HOVENSA, LLC (HOVENSA) during the relevant time period for the supply of maintenance services at the oil refinery and the worker group subject to this investigation was recruited from Texas on a seasonal and "as needed" staffing basis.

The initial determination was based on the findings that, although a significant proportion of the subject worker group had become separated, imports of services like or directly competitive with the maintenance services supplied by the subject firm had not increased; the subject firm had not shifted the supply of services like or directly competitive with maintenance services to a foreign country or acquired like or directly competitive services from a foreign country;

the subject firm was not a supplier or downstream producer to a firm that employed a group of workers who received a certification to apply for adjustment assistance; and the subject firm was not publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in an affirmative finding of serious injury, market disruption, or material injury, or threat thereof.

Reconsideration investigation

By application dated May 18, 2012, a State workforce office agent requested, on behalf of a worker, administrative reconsideration of the Department's negative determination regarding the eligibility of the subject worker group to apply for adjustment assistance. In the application, the worker stated that the initial negative determination was inaccurate because "International Global Trade & its initial impact contributed to the losses & closure of HOVENSA oil refinery, which displaced & dislocated thousands of workers, not to mention that those jobs will not return."

On June 26, 2012, the Department issued a Notice of Affirmative Determination Regarding Application for Reconsideration in order to conduct further investigation to determine worker eligibility. The Department's Notice was published in the Federal Register on July 10, 2012 (77 FR 40637).

In the course of the reconsideration investigation, the

Department reviewed the Trade Act, as amended, applicable regulations, previously-submitted information, information provided by the worker on whose behalf the request for reconsideration was filed, and new information provided by the subject firm.

During the reconsideration investigation, the Department clarified the identity of the subject worker group. The Department confirmed that HOVENSA was the only customer of Wyatt V.I., Inc. during the relevant time period, that Wyatt V.I., Inc. was created exclusively for the contract with HOVENSA, and that the subject worker group was established to exclusively work at the HOVENSA refinery plant in the U.S. Virgin Islands. Specifically, the subject workers were temporary workers who were hired by Wyatt V.I., Inc. to perform maintenance services. As such, the Department determines that the subject worker group is limited to workers of Wyatt V.I., Inc., a division of Wyatt Field Service Company, working on-site at HOVENSA, LLC Oil Refinery, Christiansted, St. Croix, U.S. Virgin Islands.

Section 222(a)(1) and Section 222(a)(2)(A)(i) have been met because a significant number or proportion of workers of Wyatt V.I., Inc., working on-site at HOVENSA, LLC Oil Refinery, Christiansted, St. Croix, U.S. Virgin Islands, have become totally separated and because the supply of maintenance services supplied by the subject worker group have decreased absolutely.

Section 222(a)(2)(A)(ii) has not been met because neither increased imports of services like or directly competitive with

the maintenance services supplied by the subject worker groups nor increased imports of refined petroleum products (the article which was produced directly using the maintenance services supplied by the subject worker group) could not have contributed importantly to worker separations at the subject firm.

Section 247(7) of the Trade Act, as amended (19 U.S.C. § 2319) defines "state" to mean the fifty States comprising the United States of America (U.S.), the District of Columbia, and the Commonwealth of Puerto Rico. Further, the regulation addressing benefits available under the Trade Program defines "State" to mean the fifty States comprising the U.S., the District of Columbia, and the Commonwealth of Puerto Rico. 20 C.F.R. 617.3(hh)

29 CFR 90.2 states that "Increased imports means that imports have increased either absolutely or relative to domestic production compared to a representative base period."

Because the subject worker group provided services on-site at a facility within the U.S. Virgin Islands, shipments of refined petroleum products, or like or directly competitive articles, into the U.S. Virgin Islands could not be considered imports into the United States, for purposes of the Trade Act, as amended. Consequently, there were no imports during the relevant period, for purposes of the Trade Act, as amended.

Section 222(a)(2)(B)(i) has not been met because the subject firm did not shift to a foreign country, or acquire from a foreign country, the supply of services like or directly competitive with

the maintenance services supplied by the subject worker group. Rather, the supply of maintenance services at HOVENSA ceased when the contract between the subject firm and HOVENSA (its only client) was terminated. Further, any shift in the supply of services from the U.S. Virgin Islands would not constitute a shift from the United States to a foreign country as the U.S. Virgin Islands is not considered a state, for purposes of the Trade Act, as amended.

CONCLUSION

After careful review of the Trade Act of 1974, as amended, applicable regulation, and information obtained during the initial and reconsideration investigations, I determine that workers and former workers of Wyatt Virgin Islands (V.I.), Inc., a division of Wyatt Field Service Company, working on-site at HOVENSA, LLC Oil Refinery, Christiansted, St. Croix, U.S. Virgin Islands, are ineligible to apply for adjustment assistance.

Signed in Washington, D.C., on this 17th day of May, 2013

DEL MIN AMY CHEN
Certifying Officer, Office of
Trade Adjustment Assistance
4510-FN-P

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